



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0413; FRL-9985-75-Region 9]

Revisions to California State Implementation Plan; South Coast Air Quality Management District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing action on a revision to the South Coast Air Quality Management District (SCAQMD or District) portion of the California State Implementation Plan (SIP). We are finalizing a conditional approval of one rule governing issuance of permits for stationary sources, including review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA). Specifically, the revision pertains to SCAQMD Rule 1325 – *Federal PM_{2.5} New Source Review Program*.

DATES: This rule will be effective on **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA-R09-OAR-2018-0413. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “FOR FURTHER

INFORMATION CONTACT” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region 9, (415) 972-3534, yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

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I. Proposed Action

On August 8, 2018 (83 FR 39012), the EPA proposed to conditionally approve the following rule that was submitted for incorporation into the SCAQMD portion of the California SIP.

TABLE 1 - SUBMITTED RULE

Rule #	Rule Title	Amended	Submitted
1325	Federal PM _{2.5} New Source Review Program	11/4/16	5/8/17

We proposed a conditional approval of this rule because we determined that, separate from the deficiencies listed in Section II.B of our proposed rulemaking action, the rule met the statutory requirements for SIP revisions as specified in section 110(l) of the CAA, as well as the substantive statutory and regulatory requirements for a nonattainment New Source Review (NSR) permit program as contained in CAA sections 110(a)(2)(C) and 173(a) through (c), and

40 CFR 51.165 that pertain to a PM_{2.5} nonattainment area classified as Serious. Moreover, we concluded that if the State submits the changes it committed to submit in its July 16, 2018 commitment letter, the identified deficiencies will be cured.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received two comments on the proposed rule. These comments raised issues that are outside the scope of our proposed approval of Rule 1325, including air pollution monitoring in China and India, climate change, and wind and solar power costs and regulations. None of those comments are germane to our evaluation of Rule 1325.

III. EPA Action

No comments were submitted that change our assessment that submitted Rule 1325 satisfies the applicable CAA requirements. Therefore, under CAA sections 110(k)(4) and 301(a), and for the reasons set forth in our August 8, 2018 proposed rule, we are finalizing the conditional approval of Rule 1325. This action incorporates Rule 1325 into the federally enforceable SIP and will be codified through revisions to 40 CFR 52.220 (Identification of plan) and 40 CFR 52.248 (Identification of plan – conditional approval).

If the State meets its commitment to submit the required changes, the revisions to Rule 1325 will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revisions. However, if the State fails to submit these revisions within the required timeframe, the conditional approval will automatically become a disapproval, and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval.

In addition, because we are finalizing our proposed action, we are removing the existing Rule 1325 from the SCAQMD portion of the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SCAQMD rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available electronically through www.regulations.gov and in hard copy at the EPA Region IX Office (please contact the person identified in the **“FOR FURTHER INFORMATION CONTACT”** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New Source Review, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 11, 2018.

Deborah Jordan
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(458)(i)(A)(2) and (c)(509) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(458) * * *

(i) * * *

(A) * * *

(2) Previously approved on May 1, 2015 in paragraph (c)(458)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(509)(i)(A)(1), Rule 1325.

* * * * *

(509) New and amended regulations for the following APCDs were submitted on May 8, 2017 by the Governor's designee.

(i) *Incorporation by reference.* (A) South Coast Air Quality Management District.

(1) Rule 1325, "Federal PM_{2.5} New Source Review Program" amended on November 4, 2016.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

* * * * *

3. Section 52.248 is amended by adding paragraph (f) to read as follows:

§52.248 Identification of plan–conditional approval.

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(f) The EPA is conditionally approving a California State Implementation Plan (SIP) revision submitted on May 8, 2017, updating Rule 1325 – Federal PM_{2.5} New Source Review Program, for the South Coast Air Quality Management District. The conditional approval is based on a commitment from the State to submit a SIP revision that will correct the identified deficiencies. If the State fails to meet its commitment by December 30, 2019, the conditional approval is treated as a disapproval.

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[FR Doc. 2018-25900 Filed: 11/29/2018 8:45 am; Publication Date: 11/30/2018]